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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,075	04/08/2004	William Myers JR.	584-35897US (102.72)	9206

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KEITH R. DERRINGTON  
SIMMONS & DERRINGTON, L.L.P  
FROST BANK BUILDING  
6750 WEST LOOP SOUTH, SUITE 920  
BELLAIRE, TX 77401

EXAMINER
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SEMUNEGUS, LULIT

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/821,075	<b>Applicant(s)</b> MYERS ET AL.	
	<b>Examiner</b> Lulit Semunegus	<b>Art Unit</b> 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 7, 9, 14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/8/04</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the outer edge" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the base" in line 8. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Dines et al (4,694,754).

In regards to claims 1 and 3, Dines et al teach a shaped charge assembly comprising: a tubular casing (140) having an open end and a closed end (fig. 7); walls

Art Unit: 3641

extending away from an outer edge of the closed end terminating on the open end (fig. 7); and reinforcing system (146) circumscribing at least a portion of the casing (fig. 7).

In regards to claim 2, Dines et al teach a space confined by the wall and the closed end, wherein the space is capable of receiving an amount of explosive (142).

In regards to claim 4, a shape charge casing remains intact and does not fragment; therefore the spine contains any fragments.

In regards to claim 12, Dines et al teach the reinforcing system extends along a portion of the length of the gun body, producing an asymmetrical radial weight distribution around the axis of the gun body (fig. 3).

In regards to claim 5, Dines et al teach a retaining shell (188) circumscribing a portion of the casing (fig. 6).

In regards to claims 10 and 11, Dines et al teach a gun body capable of retaining multiple shaped charge assembly (fig. 3).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dines et al (4,694,754) in view of Fritz et al (5,505,135). Dines et al teach all the limitations of claims 8 and 13 except the thickness of the walls decreasing from the base to the open end of the case. Fritz et al teach the walls decreasing from base to the

Art Unit: 3641

open end of the case (fig. 2); wherein the edges of the closed end are curvilinear and the thickness of the base generally exceeds the thickness of the walls thereby producing a crucible shaped casing (fig. 2). At the time of the invention, it would have been obvious to one ordinarily skilled in the art to have the walls of Dines et al decreasing from the base to the open end of the case as taught by Fritz et al since applicant has not disclosed that having the walls thicker at the base solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the walls thicker or thinner at the base relative to the walls at the open end of the case..

#### ***Allowable Subject Matter***

7. Claims 7, 9, 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Christopher (4,784,061) teaches a shaped charge assembly comprising: a casing (10) having an open end (14) and a closed end (16); walls (24) extending away from an outer edge of the closed end terminating on the open end (col. 2, lines 11-17).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lulit Semunegus whose telephone number is (571) 272-6882. The examiner can normally be reached on Mon-Friday.

Art Unit: 3641

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (571) 272-6873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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6/15/05

Lulit Semunegus  
Examiner  
Art Unit 3641



**MICHAEL J. CARONE**  
**SUPERVISORY PATENT EXAMINER**